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601 W. Main, Suite 1102  
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509-624-8988

RECEIVED APR 11 2005

Attorneys for Defendant A. O. Smith Corp.

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

APR 22 2005

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JAMES R. LARSEN, CLERK  
DEPUTY  
RICHLAND, WASHINGTON

CHRISTIANNE KING, a single  
woman,

Plaintiff,

v

A. O. SMITH CORPORATION,  
INC., a Delaware corporation doing  
business in Washington; "ABC"  
CORPORATIONS 1-5, et al, et ux,

Defendants.

No. 04-CV-302-EFS

STIPULATION AND  
ORDER FOR  
PROTECTIVE ORDER

Defendant, A.O. SMITH CORPORATION, respectfully requests a protective order which applies only to documents and materials of A.O. Smith Corporation ("A.O. Smith") and that:

1. This order shall govern the production of A.O. Smith documents specifically identified by bates stamped number on the attached Exhibit A. This order shall apply equally to all copies, prints or other reproductions, summaries, notes, synopses, or other memorialization of such documents and materials.

STIPULATION AND ORDER  
FOR PROTECTIVE ORDER- 1

2. All parties and their counsel are hereby ordered to keep confidential and not disclose to any person, firm, corporation, or other entity, not associated with this litigation, any material identified in paragraph 1 of this Order, except as set forth in paragraphs 4-5 of this Order.

3. All parties and their counsel are hereby ordered to return to the local counsel for the producing defendant at the conclusion of the litigation all documents and copies of all documents identified in paragraph 1 of this Order.

4. All parties and their counsel are hereby ordered to advise all witnesses, retained and non-retained expert witnesses and any other person, firm, corporation, or other entity who would come into contact with the information disclosed hereunder at the request of plaintiff or plaintiff's counsel to review the scope of this Protective Order, agree to abide by the Protective Order, and to execute an acknowledgement that that person, firm, corporation, or other entity has reviewed the Protective Order, and understands it, and agrees to adhere to the requirements of the Protective order.

5. The acknowledgement shall be done in the form of a Confidentiality Agreement Affidavit following the format of Exhibit "B" attached. All such executed forms will be provided to defendant at the time of expert disclosure for identified experts, or at the conclusion of the case for undesignated experts. At the conclusion of the case, each designated and consulting expert shall also execute a Certification Affidavit in the form of Exhibit "C" attached, which will be forwarded to defendant within thirty (30) days of resolution of the case.

6. All materials which are set forth, summarized, or otherwise referenced in transcripts, depositions, affidavits, exhibits, briefs, memoranda, discovery responses, or other documents or pleadings in this matter shall likewise be deemed subject to this Order. If filed with any Court, any such documents or pleadings shall be filed under seal and with notation of

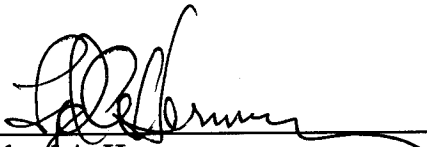
the application of this Order, and shall not be available for inspection or review without such Court's prior specific approval.

7. Nothing in this Order shall prevent any party to this action from objecting to: (1) discovery which it believes to be otherwise improper; and/or (2) the use of A.O. Smith materials at any proceeding or at any trial. This order shall be without prejudice to the right of any party or other person to challenge the propriety of discovery on any other grounds or to assert a claim of privilege pursuant to the attorney/client privilege, work product doctrine, or any other applicable privilege or rule. Nothing contained in this Order shall be construed as a waiver of any objection which might be raised as to the admissibility at trial of any evidentiary matter.


8. In order to be deemed confidential, the information must be so marked by defendant or specified in the record.

9. This order shall not be amended except on prior notice to counsel.

DATE: 4-04-05

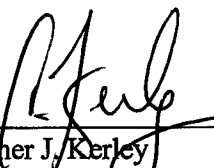
  
Lloyd A. Herman  
Lloyd A. Herman & Associates, P.S.  
213 North University Road  
Spokane Valley, WA 99206  
Counsel for Plaintiffs

DATE: 4/19/05

  
James A. Niquet  
Travis J. Rhoades  
Crivello, Carlson & Mentkowski, S.C.  
710 North Plankinton Avenue  
Milwaukee, WI 53203  
Counsel for A.O. Smith Company

DATE: \_\_\_\_\_

4/6/05

  
\_\_\_\_\_  
Christopher J. Kerley  
Keefe, King & Bowman, P.S.  
Suite 1102 Washington Mutual Financial Center  
West 601 Main Avenue  
Spokane, WA 99201  
Counsel for A.O. Smith Corporation

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT THE PROTECTIVE  
ORDER HAS BEEN GRANTED.

Dated this 22<sup>nd</sup> day of April, 2005.

  
\_\_\_\_\_  
Judge

**CONFIDENTIAL AND PROPRIETARY**  
**A.O. SMITH CORPORATION DOCUMENTS**

AOS

000012 - 000227

CSA certification file  
for water heater designs

PROTECTIVE ORDER EXHIBIT A  
CONFIDENTIAL AND PROPRIETARY  
A.O. SMITH CORPORATION DOCUMENTS- 1

Christopher J. Kerley  
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UNITED STATES DISTRICT COURT  
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Defendants.

No. 04-CV-302-EFS

CERTIFICATION  
AFFIDAVIT

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The undersigned, first being duly sworn, deposes and says:

1. I was retained by counsel for one of the parties in the above-captioned case.

2. During my work on this action I received, saw, and/or reviewed certain materials

or information that were designated as CONFIDENTIAL MATERIALS within the terms of the

PROTECTIVE ORDER EXHIBIT B  
CERTIFICATION AFFIDAVIT - 1

"Stipulated Protective Order" regarding CONFIDENTIAL MATERIALS in the captioned action.

3. As a condition to my being permitted to receive, see, and/or review any CONFIDENTIAL MATERIALS, I read the aforementioned Stipulated Protective Order, and agreed to be bound by its terms. I hereby certify that I have complied with its terms in full.

4. I understand that the Stipulated Protective Order is legally binding upon me. I hereby agree to submit to the jurisdiction of the United States District Court, Eastern District of Washington for enforcement of any claimed violation of the terms of the Stipulated Protective Order or of this Affidavit, and agree that such jurisdiction shall survive the termination of the captioned action.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

SWORN TO AND SUBSCRIBED

BEFORE ME, this \_\_\_\_\_ day of

\_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, State of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

PROTECTIVE ORDER EXHIBIT B  
CERTIFICATION AFFIDAVIT - 2

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AFFIDAVIT

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1. I was retained by counsel for one of the parties in the above-captioned case.
2. During my work on this action I received, saw, and/or reviewed certain materials or information that were designated as CONFIDENTIAL MATERIALS within the terms of the

PROTECTIVE ORDER EXHIBIT C  
CERTIFICATION AFFIDAVIT - 1



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4. I understand that the Stipulated Protective Order is legally binding upon me. I hereby agree to submit to the jurisdiction of the United States District Court, Eastern District of Wisconsin for enforcement of any claimed violation of the terms of the Stipulated Protective Order or of this Affidavit, and agree that such jurisdiction shall survive the termination of the captioned action.

Dated this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

SWORN TO AND SUBSCRIBED

BEFORE ME, this \_\_\_\_ day of

\_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, State of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

PROTECTIVE ORDER EXHIBIT C  
CERTIFICATION AFFIDAVIT - 2